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**IN THE SECOND JUDICIAL DISTRICT COURT
DAVIS COUNTY, STATE OF UTAH, FARMINGTON DEPARTMENT**

In the matter of the marriage of:

LAUREN R. MARSH,

and

KIRK RUSSEL MARSH.

**VERIFIED PETITION TO MODIFY
DECREE OF DIVORCE**

Civil No.: **184701031**

Judge: **Michael Edwards**

Commissioner: **Christina Wilson**

Lauren Marsh Zimmer (hereinafter “Mother” or “Lauren”), by and through her attorney, Kristy L. Hanson, petitions for the cause of action and alleges as follows:

RELEVANT BACKGROUND FACTS

1. Relationship Statistics. Mother and Kirk Russel Marsh (hereinafter “Father” or “Russ”) were divorced pursuant to a *Bifurcated Decree of Divorce* (the “Decree”) entered by this Court on May 14, 2019. On November 27, 2019, the Court entered a *Supplemental Decree of Divorce*. On June 23, 2020, the Court entered a *Supplemental Parenting Plan*. On April 8, 2021, the Court entered an *Amended Supplemental Parenting Plan*. These are the controlling orders in the matter. ***See Court File.***

2. Children. The parties are the parents of three minor children: NRM (born November 2010); ILM (born June 2012); and IAM (born June 2015).

3. Jurisdiction. This Court has continuing jurisdiction over this matter pursuant to Utah Code Ann. §81-1-204.

4. Current Order. The parties' *2019 Supplemental Decree of Divorce* contain the following provisions, in relevant part:

- a. Pursuant to paragraph 4, Mother and Father were awarded joint legal custody of the children.
- b. Pursuant to paragraph 4a, Mother was awarded decision-making ability for all minor and day-to-day routine decisions while Father was incarcerated. Pursuant to paragraph 4c, the parties were ordered to share joint decision-making authority on all major medical, dental, orthodontic, psychiatric, educational, extracurricular activities, or religious decisions.
- c. Pursuant to paragraph 4d, while Father was incarcerated, Mother was awarded tie-breaking decision-making authority after a full and fair discussion with Father. Pursuant to paragraph 4e, after Father was released from custody, the parties were ordered to follow the subsequent process in the event of a disagreement: first, discuss the matter themselves; second, consult with an expert in the area in question; third, attend mediation; and fourth, bring the issue before the court.

5. Dispute Resolution. Pursuant to paragraph 4(E) of the *Supplemental Decree*, the parties are required to attend mediation before bringing non-emergent issues to the Court. On December 28, 2024, Father was served with a Motion to Enforce, corresponding documents, and a letter requesting mediation with a list of proposed mediators. Father refused to attend mediation unless Mother agreed to pay for the entire cost. As such, Mother is forced to bring this matter before the Court after having made a good-faith effort to attend mediation with Father.

6. Grounds for Modification. Circumstances have arisen since November 2019 which constitute a substantial and material change of circumstances, both as to custody and parent-time issues.

7. Mother alleges admissible evidence will show that the circumstances of the children have substantially changed since the entry of the last order, and a modification of the terms and conditions of the orders as proposed herein, especially pertaining to custody and parent-time, would be an improvement for and in the best interest of the parties' minor child.

Substantial and Material Changes in Circumstances.

8. Father shows a continuing unwillingness to co-parent with Mother and has a repeated history of refusal to comply with several communication provisions within the *Supplemental Decree* and *Supplemental Parenting Plan*. Father's habitual poor actions have significant negative effects on the parties' minor children. Specifically, Father ignores Mother's attempts to communicate with him regarding major decisions for the minor children. As Father is no longer incarcerated, the parties are ordered to share joint decision-making authority. Mother does not have tie-breaking decision-making authority and cannot move forward on necessary treatment decisions for the minor children without Father's input and agreement. Due to Father's refusal to communicate and coparent, the minor children's major care decisions have suffered, causing lasting effects. The following areas of the children's care have been affected by Father's poor behavior.

a. Therapy Decisions

- i. In early 2022, the parties' youngest daughter needed to be enrolled in therapy. Mother repeatedly tried to address this with Father through email communication, which Father ignored. Specifically, Mother emailed Father about a request for therapy for their minor child on February 2, 2022,

February 9, 2022, February 25, 2022, March 1, 2022, March 15, 2022, November 3, 2022, July 8, 2023, July 17, 2023, and July 26, 2023. Father repeatedly did not respond to her requests. Due to Father's refusal to communicate, necessary therapy for the minor child was delayed until October 2023.

- ii. In November 2022, it became apparent that the parties' middle child also needed to participate in therapy. From November 2022 to December 2022, Mother reached out to Father through seven (7) different emails requesting that he approve that their middle child could participate in therapy. After seven (7) emails, Father finally responded and consented to her therapeutic treatment. The parties' middle child's therapy was again delayed because of Father's refusal to coparent.

b. Dental Decisions

- i. In March 2023, the parties' oldest child required oral surgery to remove 4 impacted wisdom teeth. Mother emailed Father 6 times over the course of March 2023 through August 2023 to address this urgent issue with him and never received a response. As the minor child was experiencing pain from the impacted wisdom teeth, Mother finally moved forward with the operation without Father's input. Further damage to the minor child would have developed if Mother did not choose to move forward. Father's refusal to respond resulted in the minor child experiencing oral pain for an additional five months.

c. Medical Treatment

- i. The parties' youngest child has epilepsy. Father has routinely given incorrect dosages of medication for her medication. Mother has tried to coordinate this with him and requested information on his observations regarding her seizures. Father has not responded to these efforts, including ignoring emails on August 16, 2022 and September 12, 2022. Father's failure to communicate with Mother regarding their minor child's medications has resulted in harmful and incorrect dosages by Father during his parent-time.
- d. Extra-curricular Activities
 - i. Father frequently refuses to respond to Mother's requests for input on the minor children's extra-curricular activities. For example, on November 15, 2023, Mother emailed Father to inquire about summer plans for the 2024 summer. In particular, the minor child had expressed interest in a summer camp, and Mother needed to sign her up prior to the end of the year. Father did not respond. On December 7, 2023, three (3) weeks later, Mother followed up with Father and again did not get a response. On April 13, 2024, after months without response, Mother followed up with Father, again, to confirm the dates and times for the camp would work. Father's refusal to timely address Mother's attempts to coparent have resulted in the minor children missing out on additional extracurricular activities and have made planning incredibly difficult.
- e. Religious Decisions
 - i. Throughout the parties' marital relationship, they were active members of the Church of Jesus Christ of Latter-day Saints. As customary in the parties'

practiced religion, minor children have the meaningful opportunity to elect to be baptized after their eighth birthday, with their parents' consent. The parties' two oldest children were baptized shortly after their eighth birthday. Father was still incarcerated at this time. In 2022, as the parties' youngest child was approaching the age of 8, Mother reached out to coparent with Father regarding her baptism. Based on Father's habitual refusal to co-parent, Mother began reaching out the year prior to their youngest child's eighth birthday. Mother hoped this would make it so her baptism was not delayed. Mother emailed Father repeatedly over the span of thirteen (13) months before she finally received a response from Father regarding their child's decision to be baptized.

9. It is noteworthy that not only does Father rarely respond to Mother's requests to co-parent, when he does choose to respond, he either sends a single sentence response or a long, angry and disparaging email. From March 1, 2023 to April 23, 2024, Mother sent Father approximately 113 emails regarding medical expenses, requests for input on major decisions, attempts to plan parent-time, or updates on the minor children. In turn, Father sent Mother approximately 24 emails. Father responds to approximately 21% of Mother's email requests to co-parent.
10. Significantly, of the 21% of communications that Father responds to, several of his responses included disparaging comments towards Mother, such as follows:
 - a. "I am saddened that I have to send communication at this time to address your mean behavior regarding picking up and dropping off the girls for the second part of Christmas break.... This repeated mean behavior of limiting my time with my girls

clearly shows the type of person who you truly are.” Father sent this email on December 26, 2023 when Mother did not forfeit her winter break parent-time after Father demanded that she do so. Father also threatened to have a “sad conversation about how [my] selfish behavior has hurt the girls.”

- b. “Lauren, this is not the first time you have behaved in this manner. It is sad that, as a mother, you would behave this way towards our children... Lauren, your behavior is absolutely contrary to that of good mother... I have not discussed how you threw away the principles of marriage for money. Is a sad state of affairs when you so publicly claim that family is so important to you, yet when it comes down to it, you’re willing to trade it in for a bank account and a big house... I am reminded of the story of Solomon. He was asked to judge between two women who claimed a baby as their child. I’m sure you know this story well. Sadly, for you, your behavior is aligned with the woman who is willing to split the baby in half rather than allow the baby’s true mother to have the child. You have attempted to split and alienate the girls from me. You have lied and manipulated. The mental and emotional abuse that has occurred from you is unbelievable for the girls.”
- c. As a final example, on September 5, 2024, Father again emailed Mother making repeated disparaging statements to her. At the time, due to Father’s failure to maintain his financial obligations, the parties’ minor child was unable to continue to receive therapy. Father responded telling Mother that her actions are a “new low” and that her behavior was “deplorable.” Father told Mother that her actions were something that “no loving mother takes.” Father continued making disparaging

comments about Mother telling her that “your disregard for anyone other than yourself is consistently sad and disappointing.”

11. Modification Requested. Accordingly, the orders should be modified as follows:

- a. Mother should be awarded sole legal custody of the minor children. As Father lives over 2,000 miles from the children and refuses to respond to Mother’s requests for his cooperation on major decision regarding the minor children’s medical, dental, orthodontic, psychiatric, educational, extracurricular activities, and religious decisions, Mother should be awarded final decision-making authority.
- b. The Court should remind Father of his duty to abide by the remaining provisions of the *Supplemental Decree* and *Amended Supplemental Parenting Plan* including financial obligations and mutual restraining order provisions.

WHEREFORE, Mother respectfully asks that this Court modify the *Amended Supplemental Decree* as follows:

1. That custody orders be modified so that Mother is awarded sole legal custody of the minor children.

DATED and signed this 12th day of February, 2025.

/s/ KRISTY HANSON
KRISTY L. HANSON
Attorney for Lauren Marsh Zimmer

VERIFICATION

I declare under the laws of Utah that I have read the foregoing document and that the facts contained in the Relevant Background Facts section herein are true and correct to the best of my knowledge and belief.

DATED and SIGNED this 17th day of February, 2025 at Utah County, Utah.

/s/Lauren Zimmer – signed w/ email permission
LAUREN MARSH ZIMMER